



Town of Nantucket
INVITATION FOR BIDS
REPAIR AND REPLACEMENT
OF PINE VALLEY STRUCTURE AND PIPING
FOR THE DEPARTMENT OF PUBLIC WORKS

The Town of Nantucket, through its Town Administration, invites qualified bidders to submit bids for Pine Valley Pumping Station emergency replacement of all piping from the pump discharges to the valve pit cross connections to include all valves and fittings. This work will also include installation of a bypass connection and force main drain with valves and requires the vendor to provide bypass pumping and connections to maintain service during construction for the Department of Public Works.

GENERAL INFORMATION AND BID SUBMISSION REQUIREMENTS.

- 1) Bids documents may be obtained from and will be accepted at the Town of Nantucket, Procurement Office 16 Broad Street, Nantucket, MA 02554, **until 3:00 PM, Wednesday, November 4, 2015** and publicly opened forthwith for this Invitation for Bid which is made in accordance with M.G.L. c 149. Two copies of the bid are required.

- 2) The bid envelope must be sealed and clearly marked:

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- 3) Award will be made within thirty (30) days after bid opening unless otherwise stated in the specifications or the time for award is extended by mutual consent of all parties. All bids submitted shall be valid for a minimum period of thirty (30) calendar days following the date established for acceptance.
- 4) If any changes are made to this IFB, an addendum will be issued. Addenda will be mailed or faxed to all bidders on record as having requested the IFB. Addenda will be posted on the Town website at www.nantucket-ma.gov on the Procurement page. Each responder shall acknowledge receipt of any and all addendum issues by submitting acknowledgment forms provided with any Addenda. **Failure to do so shall be cause to reject the submittal as being unresponsive.**
- 5) Questions concerning this IFB must be submitted in writing to: Heidi Bauer, Chief Procurement Officer at 16 Broad Street, Nantucket, MA 02554 **before 4:00 PM, Monday, November 2, 2015**. Questions may be delivered, mailed, emailed to hbauerl@nantucket-ma.gov or faxed. Written responses will be mailed or faxed to all bidders on record as having requested the IFB and will be posted on the Town website.
- 6) Bids may be modified, corrected or withdrawn only by written correspondence received by the Town of Nantucket prior to the time and date set for the bid opening. Bid modifications must be submitted in a sealed envelope clearly labeled "Modification No. ____" and must reference the original IFB.
- 7) After the bid opening, a bidder may not change any provision of the bid in a manner prejudicial to the interests of the Town of Nantucket or fair competition. Minor informalities will be waived or the bidder will be allowed to correct them. If a mistake and the intended bid are clearly evident on the face of the bid



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document, the mistake will be corrected to reflect the intended bid, and the bidder will be notified in writing; the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the bid, but the intended correct bid is not similarly evident.

- 8) The Town of Nantucket reserves the right to reject any and all bids and to waive any informality in bids received whenever such rejection or waiver is in its best interest.
- 9) The Town of Nantucket will not be responsible for any expenses incurred in preparing and submitting bids. All bids shall become the property of the Town of Nantucket.
- 10) Responders must be willing to enter into the Town of Nantucket's standard form of contract that will include the scope of services description of this IFB.
- 11) The bid, and any subsequent contract for the services, is hereby issued in accordance with applicable Massachusetts General Laws. The selected bidder shall be expected to comply with all applicable state and federal laws in performance of service.
- 12) Bids received prior to the date of opening will be securely kept, unopened. No responsibility will attach to an officer or person for the premature opening of a bid not properly addressed and identified.
- 13) Any bids received after the advertised date and time for opening will be returned to the responder unopened.
- 14) Purchases by the Town of Nantucket are exempt from federal, state and municipal sales and/or excise taxes.
- 15) If the bid Grand Total exceeds \$100,000 the bidder must be DCAM Certified and submit an update statement.
- 16) The Tax Compliance Certification and the Certificate of Non-Collusion must be included with the bid response. The bid must be signed by the authorized individual(s).
- 17) Unexpected closures. If, at the time of the scheduled bid opening, Town Hall is closed due to uncontrolled events such as fire, snow, ice, wind or building evacuation, the bid opening will be postponed until 2:00 PM on the next normal business day. Bids will be accepted until that date and time.
- 18) The Town of Nantucket is an Affirmative Action/Equal Opportunity Employer. The Town encourages bids from qualified MBE/DBE/WBE firms.
- 19) Bidders should be aware that many overnight mailing services do not guarantee service to Nantucket.
- 20) **Contractor must comply with:** Chapter 306 of the Acts of 2004 § 1. (3) who shall certify that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at



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least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and **SECTION 2** (3) that all employees to be employed in the work subject to this bid have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration. (b) Any employee found on a worksite subject to this section without documentation of successful completion of a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration shall be subject to immediate removal. **SECTION 5** This act shall take effect on July 1, 2006.

- 21) **PREVAILING WAGE** Pursuant to Massachusetts General Laws, chapter 149, sections 26 and 27, the Division of Occupational Safety (formerly the Department of Labor and Industries) has determined the Prevailing Wage Rates for this work. The enclosed rates apply only to this work. The Prevailing Wage shall become part of the contract signed between the successful bidder and the awarding authority or the contract is invalid. Prevailing Wages must be paid to all persons employed on the public works project, regardless of whether they are employed by the successful bidder or a subcontractor. The wage rates issued for each project shall be paid for the entire project.

Payroll records must be kept by the successful bidder for all persons employed on the project. A separate Statement of Compliance must be submitted to the Division of Occupational Safety by every employer, including all prime contractors and subcontractors, when its portion of the work is completed. The enclosed form entitled "Weekly Payroll Records Report and Statement of Compliance" clearly details these requirements. A certified payroll must be submitted to the Board of Selectmen office for each week work is performed for the Town under this contract.

SCOPE OF SERVICES

This is a one (1) year contract.

SCOPE OF WORK

The Contractor shall furnish all labor, tools and equipment necessary for the complete and satisfactory performance of general commercial and industrial installations of pumping stations piping and all associated valves and fittings for the conveyance of raw sewage. All work shall be performed in accordance with Massachusetts General Law (MGL), Chapter 141 (latest revision).

The bid shall be for a not to exceed lump sum price.

The Contractor shall be expected to perform all phases of excavation, construction, fabrication and QA/QC of all materials used during the repairs and construction. Any and all permits required will be the responsibility of the winning contractor in conjunction with the towns engineering department or engineering firm retained by the Nantucket Department of Public Works.

The contractor shall be required to be available, at no cost to the Town during the working day, at times mutually
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convenient to himself and a representative of the Town for consultation regarding potential work, to visit work locations and to prepare estimates. If the Contractor finds upon examination of the assigned job, that the work will be more extensive than originally ordered, he should contact the Town representative within 24 hours for authorization to proceed with the additional work.

Any and all work performed throughout the duration of the contract must be guaranteed by the contractor to be completed in a workmanship-like manner and according to applicable codes and industry-accepted standards. Unless otherwise stated in specifications for a particular job, the contractor will supply all labor, equipment, materials, parts and supplies necessary to complete a service. The Town of Nantucket reserves the right to provide the materials for a job at their option. The contractor will be responsible for securing any and all necessary permits required prior to commencing work on any job. Emergency needs require 24 hour, 7 day a week availability of a service.

Services solicited through this bid are subject to the Massachusetts Prevailing Wage Laws. Applicable Prevailing Wage Rates are issued with this bid. These will become part of any contract resulting from this bid. These wage rates will be valid for the duration of the contract. It is the responsibility of the contractor to adhere to the Prevailing Wage Laws and all requirements. The contractor must submit a Weekly Payroll Report Form, which is included with this bid to the Town of Nantucket.

OSHA Requirements:

All contractors are subject to all applicable OSHA regulations and laws and must provide copies of certifications for their employees that will be doing any work on Town of Nantucket projects.

WORK WILL REQUIRE CONFINED SPACE ENTRIES:

Any and all confined space work will be done by certified entrants and supervisors and will be overseen by Certified Town of Nantucket Wastewater Operators. All permits and notifications will be performed by the Chief Operator or his designee. All safety equipment and gas meters will be provided by the contractor.

It is intended that the Contractor shall accomplish the majority of work during normal business hours and on a straight time basis. Work shall not be accomplished on an overtime basis unless prior approval has been obtained. Standard hours of work shall be Monday-Friday 7:00 am until 4:00 pm. Some work will require contractor to perform certain tasks during low flow conditions during the hours of 9pm to 5am to allow for stopping flows or creating bypass connections. Any and all work after normal hours will require a Licensed and Qualified Wastewater Operator to be onsite. All work is to be quality work and shall be performed according to the standards of the industry and according to the plans, directions and instructions as presented by the authorized representative of the Town of Nantucket and must meet all state and town Building Codes.

The Contractor shall only use trained and licensed personnel who are directly employed and supervised by the Contractor unless prior approval is obtained. The Contractor shall not subcontract or sublet any portion of the work.

The Town of Nantucket reserves the right to inspect any and all work performed and in progress under these contracts. Any omission or failure on the part of the Town of Nantucket's representative to disapprove or reject inferior or defective work or materials shall not be construed to be an acceptance of such work or material. If any

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defective work or material is found during inspection, the contractor shall remove or repair, at his/her own expense, such defective work or material rejected and shall rebuild and/or replace it without extra charge.

All materials and equipment provided under the contract shall be listed and labeled for the purpose intended. All work provided under this contract shall have, as a minimum, a one (1) year warranty from the date of final acceptance thereof against any latent defects, design, materials, workmanship and installation.

The Contractor warrants that, unless otherwise specified, all materials and equipment, incorporated in the work under the Contract shall be new, first class, and in accordance with the Contract Documents. The Contractor further warrants all workmanship shall be first class and in accordance with the Contract Documents and shall be performed by persons qualified in their respective trades. Work not conforming to these warranties shall be deemed unacceptable and will not be paid.

BID SUBMISSION REQUIREMENTS

- 1) The Tax Compliance Certification must be included with the bid response. The bid must be signed by the authorized individual(s).
- 2) A Certificate of Non Collusion must be submitted with the bid response.
- 3) Bidders must submit a **bid deposit of five percent (5%) of the amount of the base bid**. Bid deposit may be in the form of a certified check; a bank, treasurers or cashier's check; or a bid bond from a surety company. A 50% payment bond will be due within ten days of contract award.
- 4) Bid Price Form.
- 5) Reference list per Section V of this IFB.
- 6) Acknowledgement of all addenda issued.
- 7) OSHA Training Certification cards for all employees who will be working on this project.

GENERAL

The contractor must check in and out with the Plant Supervisor or designee for work to be performed at all locations to determine the exact scope of the task required and open a request which specifies the work and labor force required. If the work is of a nature to require an electrical permit; then the electrical permit number shall be included on the request. After the work is completed, the contractor shall list the hours worked on site, the worker's name, trade skill level (licensed journeyman or registered apprentice) and the materials used. If an electrical permit is required, the request must have the inspector's signature. The invoice must show the labor hours and costs, the contractor cost and mark-up of all materials used, and any other miscellaneous charges.

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PAYMENT

The Contractor will be paid per approved invoice (on a monthly basis). An invoice will be presented for the services performed. Invoices for any other building or department will be sent to 16 Broad Street Nantucket with the location of work done clearly listed on the Invoice and will be paid by the department requesting the work done. This invoice shall, at a minimum, identify the work that was done, where it was done, when it was done and who authorized it. Additionally, it will detail the unit cost and extended cost for each wage/labor category, Contractor cost and applicable markup for parts and/or materials and costs for equipment rental.

Neither the Contractor nor the Contractor's employees are to have family, friends or associates unrelated to this contract with them for extended periods of time while working in any of the Facilities.

QUALITY REQUIREMENT

Where required by law, contractors must possess a valid license/registration to perform services in the Commonwealth of Massachusetts. A copy of any required license/ registration must be submitted with the bidder's response.

Bidders must comply with all of the bid submission requirements listed in Section I. It is mandatory that the Contractor be able to meet the following requirements:

Contractor must have been regularly and actively engaged in the business of installing and repairing pump stations and piping, operating under the same business name and business organization structure; and performing the type of work described above under "SCOPE OF WORK" for a minimum of five (5) years.

The Town of Nantucket has a preference for vendors within a 100-mile radius of the Town of Nantucket (16 Broad Street, Nantucket, MA is point of reference) in order to respond quickly to emergency needs and additionally seeks firms that:

- Have a minimum work force consisting of not less than two (4) full-time qualified employees.
- Maintain a twenty-four (24) hour, seven (7) day per week emergency response telephone number or Cell phone number that is staffed by a person and not just an answering machine (passive answering machines are not acceptable) or an available cell phone number that will be answered and/or the phone call returned within one (1) hour..
- Carry the required amount of insurance as shown by the insurance requirement enclosed herewith. Certification of insurance shall be provided to the Town of Nantucket prior to commencement of work and not later than fifteen (15) calendar days from notice of contract award. Insurance shall remain in force during the full term of the contractual agreement and/or until work is completed and accepted by the Town of Nantucket, whichever is later.
- Rate per hour of the wages to be paid under this particular contractual agreement shall be not less than the applicable rate of wages as determined by the Commissioner of Labor and Industries and announced in the "Minimum Wage Rates Schedule" enclosed herewith.

Bidder must have and maintain the following insurances:

- a) Workers' Compensation coverage, covering the obligations of the Contractor in accordance with IFB - PINEVALLEY PUMPING STATION EMERGENCY



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applicable workers' compensation or benefits law;

b) Commercial General Liability insurance on an occurrence basis with a combined single limit of not less than \$1,000,000. Coverage is to include premises and operations, coverage for liability or subcontractors and products and completed operations. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this contract. The Town will be added as an additional named insured;

c) Automobile Liability insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.

➔ *The bidder must include a copy of current Certificate of Insurance with bid.*

REFERENCES

Bidder must provide three (3) current references that are satisfactory to the Town of Nantucket and will serve to illustrate the ability of your firm to act as the primary conveyor to accomplish construction, installations and or maintenance services in accordance with specifications. References used for this purpose shall be public agencies, commercial or industrial accounts that your firm has provided the listed types of construction, installations and or maintenance service for a period not less than twelve (12) consecutive months. Reference information must include Company/Individual Person, Phone Number, Fax Number and date of service.

Poor references may be a basis for determining that a bidder is not responsible. Reference questions will include but may not be limited to cleaning quality, bidder reliability, responsiveness, customer service and general customer satisfaction.

CONTRACT LENGTH

The Contract shall be for one (1) year from the date of award.

CANCELLATION OF CONTRACT

The Town of Nantucket reserves the right to cancel and terminate the contract in the event that the services provided by the Contractor prove to be unsatisfactory.

RULE FOR AWARD

The contract will be awarded to the lowest responsive and responsible bidder as determined by the TOTAL number submitted on the Bid Sheet..



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TOWN OF NANTUCKET BID SHEET

The undersigned hereby certifies that he is able to furnish labor that can work in harmony with the Town of Nantucket and its individual purchasing entities. It is mutually agreed that the proposed contractor is an independent contractor and is in no way an agent, servant or employee of any one of the purchasing entities.

The following prices represent firm prices for the term of the Contract.

Contractor Name: _____ **Date:** _____

PROPOSED PROJECT TOTAL AMOUNT INCLUDES ALL COSTS INVOLVED IN THE PLANNING, MOBILIZATION, BYPASS PUMPING, CONTRUCTION AND CLEANUP OF ALL AREAS EFFECTED AND PROPER DISPOSAL OF MATERIALS. ANY POLICE DETAILS OR ADDITIONAL PERSONEL OR EQUIPMENT REQUIRED OR ELECTRICAL SERVICES WILL BE THE SOLE RESPONSIBILTY OF THE CONTRACTOR

TOTAL \$ _____

The undersigned proposes to provide services as described in the "Scope of Services" and the entire bid document in accordance with the Bid Specifications prepared by the Town of Nantucket, for the Bid price(s) shown, to Heidi Bauer CPO, Town of Nantucket, 16 Broad Street, Nantucket, MA 02554

The undersigned agrees that if presented with a Notice of Acceptance for this Contract, will within five days of receipt of a Contract Document, Saturdays, Sundays and legal holidays excluded, execute the Contract in accordance with the terms of this Bid.

The Town of Nantucket reserves the right to reject any or all bids and to waive minor informalities as provided under Chapter 149, M.G.L.

COMPANY NAME: _____

SIGNATURE: _____

PRINT NAME: _____

ADDRESS: _____

PHONE#: _____ **DATE:** _____

ON CALL PHONE # OR PAGER #: _____

FEIN # _____

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CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

By:

Signature of Authorized Individual
Date

Printed Name

Name of Business



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TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

By:

Signature of Authorized Individual

Printed Name

Date

FEIN



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AGREEMENT BETWEEN THE TOWN OF NANTUCKET, MASSACHUSETTS AND XXXXXXX

THIS AGREEMENT made effective _____, 2015, by and between the **TOWN OF NANTUCKET, MASSACHUSETTS**, a municipal corporation, acting by and through its Town Administration, with offices at Town Hall, Nantucket, Massachusetts 02554 (hereinafter called the "TOWN"), and **XXXXXXXXXXXXXXXX** whose principal office address and state of incorporation are as set forth on Exhibit A (hereinafter called the "CONTRACTOR").

RECITALS:

WHEREAS, the TOWN desires to retain the CONTRACTOR to provide certain services for the TOWN, as described below, and the CONTRACTOR is willing to accept such engagement, all on the terms hereinafter set forth,

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 - ENGAGEMENT OF THE CONTRACTOR

- 1.1 The TOWN hereby engages the CONTRACTOR, and the CONTRACTOR hereby accepts the engagement to perform certain services for the TOWN, as described in Article 2.
- 1.2 In the performance of any service under this Agreement, the CONTRACTOR acts at all times as an independent contractor. There is no relationship of employment or agency between the TOWN, on the one hand, and the CONTRACTOR, on the other, and the TOWN shall not have or exercise any control or direction over the method by which the CONTRACTOR performs its work or functions aside from such control or directions which are consistent with the independent contractor relationship contemplated in the Agreement.

ARTICLE 2 - SERVICES OF THE CONTRACTOR

- 2.1 The CONTRACTOR will perform the services described in the Scope of Services set forth on Exhibit A (the "Work").
- 2.2 The CONTRACTOR shall report, and be responsible, to the TOWN and its designee (if any) as set forth on Exhibit A.
- 2.3 There shall be no amendment to the Scope of Services or Work provided for in this Agreement without the written approval of the TOWN. The TOWN shall be under no obligation to pay for any services performed by the CONTRACTOR which are not explicitly agreed to by the TOWN in writing.
- 2.4 The CONTRACTOR represents and warrants to the TOWN that the CONTRACTOR (including all of its personnel, whether employees, agents or independent contractors) will be qualified and duly licensed (if

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necessary) to perform the services required by this Agreement and further agrees to perform its services in a professional manner, and in accordance with the reasonable standard of care implied by law and all applicable local, state or federal ordinances, laws, rules and regulations, all of which are incorporated herein by reference. The CONTRACTOR will obtain and pay for any and all permits, bonds and other items required for the proper and legal performance of the Work.

- 2.5 The CONTRACTOR represents and warrants to the TOWN that it is not a party to any agreement contract or understanding which would in any way restricts or prohibits it from undertaking or performing its obligations hereunder in accordance with the terms and conditions of this Agreement.
- 2.6 All written materials and any other documents (whether in the form of "hard" copies, graphics, magnetic media or otherwise) which are received and produced by the CONTRACTOR pursuant to this Agreement shall be deemed to be "work for hire" and shall be and become the property of the TOWN upon the receipt and production of such items by the CONTRACTOR. The TOWN acknowledges that such materials are being prepared with respect to the specific project contemplated hereby and that any reuse of such materials by the TOWN in connection with any other project shall be at the TOWN's sole risk, unless otherwise agreed to by the CONTRACTOR in writing.
- 2.7 The CONTRACTOR shall be responsible for the professional and technical accuracy, and for the coordination, of all designs, drawings, specifications, estimates and other work or services furnished by CONTRACTOR or its consultants and subcontractors. The CONTRACTOR shall perform its work under this Agreement in such a competent and professional manner that detail checking and reviewing by the TOWN shall not be necessary. The CONTRACTOR shall supervise and direct the Work, using its best skills and attention, which shall not be less than such state of skill and attention generally rendered by the design and engineering profession for projects similar to the subject project in scope, difficulty and location.
- 2.8 The CONTRACTOR shall not use any subcontractors or sub-consultants (not identified herein) for any work required under this Agreement unless such use has been approved in advance in writing by the TOWN.
- 2.9 Notwithstanding anything to the contrary in this Agreement, the CONTRACTOR shall not be relieved of its obligations under this Agreement by the TOWN's performance, or failure to perform, any of the TOWN's administrative duties under this Agreement, including, but not limited to, the TOWN's review and/or approval of plans, estimates, programs, documents, materials, work and services furnished by CONTRACTOR.

ARTICLE 3 - PERIOD OF SERVICES

- 3.1 Unless otherwise provided on Exhibit A, the term of this Agreement shall commence on the date hereof and continue until the Work is completed to the TOWN's reasonable satisfaction.
- 3.2 The CONTRACTOR shall proceed with the Work promptly after receiving Notice to Proceed and will diligently and faithfully prosecute the Work to completion in accordance with the provisions hereof. In any event, the Work shall be completed no later than the date set forth on Exhibit A. The CONTRACTOR

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acknowledges that time is of the essence of this Agreement.

- 3.3 If the CONTRACTOR is delayed in the performance of any of its obligations under this Agreement by the occurrence of an unforeseen event beyond its control such as fire or other casualty, abnormal adverse weather conditions, acts of God (collectively, "Unavoidable Events") which materially and adversely affect its ability to perform the Work, then the time for the CONTRACTOR to perform the Work shall be extended for such time as the TOWN shall reasonably determine is necessary to permit the CONTRACTOR to perform in light of the effects of the Unavoidable Event.

If an Unavoidable Event occurs which, in the TOWN's reasonable determination, makes the performance of the Agreement impossible without the expenditure of additional TOWN funds, the TOWN may, at its option, elect to terminate this Agreement upon thirty (30) days written notice.

ARTICLE 4 - PAYMENTS TO THE CONTRACTOR

- 4.1 The compensation due to the CONTRACTOR shall be paid in the amounts, and in the manner, set forth on Exhibit B, attached hereto.
- 4.2 The CONTRACTOR will bill the TOWN at the completion of the work unless otherwise provided on Exhibit B, with one or more invoices broken down to show the quantity of work performed and the percentage of the entire project completed, categories and amount of reimbursable expenses (if any), and provide such supporting data as may be required by the TOWN.
- 4.3 The TOWN will pay the CONTRACTOR upon review and approval of such invoices by the TOWN or its designee.
- 4.4 This engagement may be subject to budgetary restrictions which may limit the total amount of funds available for the Work. Accordingly, unless otherwise stated on Exhibit B, the TOWN will not be obligated to pay any amount in excess of the maximum project amount without the express written approval of the TOWN.
- 4.5 The CONTRACTOR and its sub-contractors shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the CONTRACTOR in the preparation of the documents, as reasonably determined by the TOWN.

ARTICLE 5 - TERMINATION

- 5.1 This Agreement may be terminated, with cause, by either the TOWN or CONTRACTOR, upon written notice given by the non-defaulting party. For the purposes of this provision, "cause" shall include the failure of a party to fulfill its material duties hereunder in a timely and proper manner.
- 5.2 The TOWN shall have the right to terminate this Agreement for its convenience and without cause upon ten (10) days written notice.
- 5.3 Following termination of this Agreement, the parties shall be relieved of all further obligations hereunder except:

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- (a) unless the TOWN terminates for cause under paragraph 5.1, in which event the TOWN shall be under no obligation to make any payments to CONTRACTOR except for those services satisfactorily provided, the TOWN shall remain responsible for payments for the services satisfactorily performed and, unless this Agreement is for a lump-sum, expenses of CONTRACTOR reasonably accrued prior to the effective date of the notice of termination in compliance with this Agreement (less the value of any claims of the TOWN), all as determined by the TOWN in its sole discretion, but for no other amounts, including, without limitation, claims for lost profits on Work not performed; and
- (b) The CONTRACTOR shall remain liable for any damages, expenses or liabilities arising under this Agreement (including its indemnity obligations) with respect to WORK performed pursuant to the Agreement.

ARTICLE 6 - INSURANCE AND INDEMNIFICATION

6.1 The CONTRACTOR agrees to indemnify and save the TOWN harmless from any and all manner of suits, claims, or demands arising out of any errors, omissions or negligence by CONTRACTOR (including all its employees, agents and independent contractors) in performing the Work, or any breach of the terms of this Agreement by such CONTRACTOR and shall reimburse the TOWN for any and all costs, damages and expenses, including reasonable attorney's fees, which the TOWN pays or becomes obligated to pay, by reason of such activities, or breach. The provisions of this Section 6.1 shall be in addition to, and shall not be construed as a limitation on, any other legal rights of the TOWN with respect to the CONTRACTOR, in connection with this Agreement, and shall survive termination or expiration of this Agreement.

- 6.2 Before commencing work the CONTRACTOR shall obtain and maintain at its expense and from insurance companies of a Best Rating of A or better, which are licensed to do business in the Commonwealth of Massachusetts, insurance as set forth below. If the CONTRACTOR is permitted to sub-contract a material portion of the Work, or is otherwise identifying a third party to perform services for the Town, the CONTRACTOR shall assure that such sub-contractor or other third party also has such insurance.
- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
 - (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
 - (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.
 - (d) Errors and Omissions Insurance of not less than \$2 million per claim. The coverage shall be in force from the date of execution of the Agreement to the date when all design and construction



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work is completed and accepted by the TOWN, unless, however, the policy is a "claims made policy," in which event the policy shall remain effective and in full force for a period of six (6) years after completion of all design and construction work relating to the engagement.

- (e) Such additional insurance as may be required to be carried by the CONTRACTOR by law.
- (f) Such additional insurance as the TOWN may reasonably require, as set forth on Exhibit A.

CONTRACTOR shall maintain such insurance during the term of Agreement and give the TOWN twenty (20) days written notice of any change or cancellation of coverage. Each insurer providing policies hereunder shall waive its rights to subrogate claims against the TOWN. The TOWN will be added as an additional named insured with respect to each such policy and such endorsement shall be reflected on a Certificate of Insurance to be delivered to the TOWN upon the execution of this Agreement and at such times thereafter as the TOWN may reasonably request.

ARTICLE 7 - GENERAL PROVISIONS

- 7.1 Upon the expiration or the termination of this Agreement for any reason, all data, drawings, specifications, reports, estimates, summaries and other work product which have been accumulated, developed or prepared by the CONTRACTOR (whether completed or in process) shall become the property of the TOWN upon payment for such to the CONTRACTOR and the CONTRACTOR shall immediately deliver or otherwise make available all such material to the TOWN.
- 7.2 Neither party may assign, transfer or otherwise dispose of this Agreement or any of its rights hereunder or otherwise delegate any of its duties hereunder without the prior written consent of the other party, and any such attempted assignment or other disposition without such consent shall be null and void and of no force and effect.
- 7.3 Except as otherwise expressly provided in this Agreement, any decision or action made by the TOWN relating to this Agreement, its operation, amendment or termination, shall be made by the Board, Committee or Authority of the TOWN specified in the initial paragraph of this Agreement, unless specifically authorized or delegated by a lawful vote of such body.
- 7.4 This Agreement, together with Exhibit A (Contractor, Scope of Work, Term), Exhibit B (Payments), and Exhibit C (Tax Compliance Certificate), and any additional exhibits referred to therein, constitute the entire agreement of TOWN and CONTRACTOR with respect to the matters set forth therein and may not be changed, amended, modified or terms waived except by a writing signed by TOWN and CONTRACTOR. If there is any conflict among the terms set forth in the body of this Agreement and the terms or provisions set forth in Exhibit A or Exhibit B, or in any other attachment hereto, or in any other document or law incorporated by reference herein, such conflict shall be resolved by giving precedence to the party's address above by certified mail, return receipt requested Terms or provisions contained in the following documents in accordance with the following hierarchy, with the topmost document of the highest priority:
 - A. Applicable federal, state and local laws, rules and regulations.
 - B. Amendments to this Agreement, if any.



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- C. Exhibits A and B.
- D. This Agreement.
- E. Any other attachments to this Agreement.

To the extent the conflict is not resolved by applying the above hierarchy, the conflict shall be resolved in a manner that results in the highest quantity and best quality of goods and services to the TOWN.

- 7.5 This Agreement is governed by the law of The Commonwealth of Massachusetts and shall be construed in accordance therewith. The parties agree that exclusive jurisdiction for any action arising out of or relating to this Agreement shall lie with the state and federal courts having jurisdiction over the county and state in which the Town is located and the parties hereby irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any proceeding brought in such location and further irrevocably waive any claims that any such proceeding has been brought in an inconvenient forum.
- 7.6 Any notices required or allowed shall be to the person's address above by certified mail, return receipt requested.
- 7.7 Notwithstanding anything to the contrary in this Agreement, this Agreement is subject to the appropriation and availability of funds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

TOWN OF NANTUCKET,
MASSACHUSETTS:

CONTRACTOR:

C. Elizabeth Gibson
Town Manager

Name
President

Funding Org/Obj: _____

FEIN: _____

Approved as to Funds Available

Purchase Order # _____

Brian E. Turbitt – Finance Director or Bob
Dickinson – Assistant Town Accountant

IFB - PINEVALLEY PUMPING STATION EMERGENCY



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CONTRACT EXHIBIT A

CONTRACTOR, SCOPE OF WORK, TERM

1. Name of Contractor:
2. State of Incorporation:
3. Principal Office Address:
4. Description of Services:
5. Person, Department, or Committee, if any, to whom CONTRACTOR reports (§ 2.2):
6. Term of Agreement (§3.1):
7. Completion Date (§3.2):
8. Additional Insurance Coverage (§6.2(e)):



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AGREEMENT EXHIBIT B

PAYMENTS

1. Lump Sum Method
 - a. **Maximum Project Amount:**
 - b. **Payment Increments:** CONTRACTOR shall submit monthly invoices based on a percentage of work complete work as delineated in a progress report accompanying each invoice for approval and processing by the TOWN.
 - c. **Reimbursable Expenses (if any):** None.



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TAX COMPLIANCE CERTIFICATION EXHIBIT C

Pursuant to M.G.L. 62C, Sec.49A, the undersigned certifies under the penalties of perjury that it, to the best knowledge and belief of management, has filed all state tax returns and paid all state taxes required under law (if any, are so required).

By:

Name, President

Date

FEIN:



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CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of person signing contract

Name of Business